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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/754,326	01/09/2004	Jeffrey W. Carr	CARR-01003US1	7474
23910	7590	06/30/2006	SRM/DTX	
FLIESLER MEYER, LLP FOUR EMBARCADERO CENTER SUITE 400 SAN FRANCISCO, CA 94111			EXAMINER PASCHALL, MARK H	
			ART UNIT	PAPER NUMBER
			3742	

DATE MAILED: 06/30/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

**Application No.**

10/754,326

**Applicant(s)**

CARR

**Examiner**

Mark H. Paschall

**Art Unit**

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**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE \_\_\_\_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 April 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-7,9-13,16-21 are rejected under 35 U.S.C. 102(b) as being anticipated by Gorynin et al. claims are unpatentable for the same reasons set forth on page 3 in the prior office action.

Claims 1-7,9-13,16-21 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Fincke et al. claims are unpatentable for the same reasons set forth on page 3 in the prior office action.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-7,9-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Selitzer in view of either Fincke et al or Gorynin et al. The claims are rejected for the same reasons set forth in the prior office action, page 2.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Selitzer in view of either Gorynin et al or Fincke et al as applied to claims 1-7,9-21 above, and further in view of Wagner. The claims are unpatentable for the same reasons set forth in the prior office action.

### ***Response to Arguments***

Applicant's arguments filed 04-12-06 have been fully considered but they are not persuasive. Applicant's remarks advance that the patents to Gorynin et al and Fincke et al are flame spray devices and could not be used to clean a work, as claimed. It should be noted that the patent to Selitzer is relied on for teaching removal of contaminants and films using a plasma device. The patents to Gorynin et al and Fincke et al are relied on merely for teaching that a plasma torch can be effectively used with combustion gases as the self-sustaining fuel in contrast to a non-combustible plasma. Applicant's claimed invention comprises a plasma torch, and use of this torch to clean is intended use and not patentably limiting. Both patents to Gorynin et al and to Fincke et al use a reactive component, powder, in a combustion flame torch, as claimed. Selitzer teaches a staging component, an injection component for the reactive products and translation of the torch. Selitzer differs from that which is instantly claimed, only in teaching a plasma combustion flame. Clearly the secondary references applied do show reactive components in a combustion plasma torch as conventional, and one of ordinary skill in the art would find proper motivation to adapt the Selitzer system with a combustion torch, this modification dependent on the power levels used, the work processed and

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the gases used, all undisclosed parameters. Depending on the intended use for the torch, no patentable weight is applied to the limitation , "to clean the surface of a workpiece. The patent to Wagner is relied on for teaching that it is conventional to use a flame suppressor in plasma processes, with the benefit of a safer device to the end user. The rejections under 35 USC 102 stand, since Applicant has presented apparatus claims and not method claims, the cleaning limitation merely comprising an intended use for the device. Clearly both Gorynin et al and Fincke et al teach reactive components in a plasma combustion apparatus with both translation means and component injection means, thus anticipating the claimed subject matter.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark H. Paschall whose telephone number is 703 308-1642. The examiner can normally be reached on 7am - 3pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robin Evans can be reached on 571-272-4777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Mark H Paschall  
Primary Examiner  
Art Unit 3742

Mp